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In re Application of
MOLEV-SHTEIMAN
Serial No.: 09/529,163
PCT No.: PCT/US98/19708
Int. Filing Date: 18 September 1998
Priority Date: 09 October 1997
Attorney Docket No.: 968/32
For: METHOD OF EMULATING A
SHIFT REGISTER USING A RAM

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: DECISION ON PETITION
:
: TO WITHDRAW HOLDING
:
: OF ABANDONMENT
:
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This decision is in response to applicant's third "Renewed Petition under 37 CFR 1.181", filed 30 September 2002 in the United States Patent and Trademark Office (USPTO) in the above-captioned application, requesting withdrawal of the holding of abandonment. No petition fee is required.

BACKGROUND

On 17 May 2000, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration and the appropriate surcharge for filing the oath or declaration after the thirty month period was required.

On 23 January 2001, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the 17 May 2000 Notification of Missing Requirements.

On 09 February 2001, applicant filed a "Petition to Withdraw Holding of Abandonment" seeking withdrawal of the holding of abandonment and alleging that the Notification of Missing Requirements mailed 17 May 2000 was never received, that no response was made and the application went abandoned. The petition was treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

On 10 August 2001, a decision dismissing the petition was mailed to applicant indicating that applicant had failed to provide a proper showing to establish that papers were not received.

On 09 October 2001, applicant filed the instant renewed petition under 37 CFR 1.181 along with the revised declarations of Mark M. Friedman and Anthony Castorina. A decision dismissing the renewed petition was mailed to applicant on 02 August 2002. The decision indicated defects in Messrs. Friedman and Castorina's declaration.

DISCUSSION

As previously stated, a petition requesting relief based on the grounds that an Office action was not received as set forth in the Official Gazette at 1156 OG 53 must be accompanied by the following: (1) a statement by the practitioner stating that the Office action was not

received by the practitioner and (2) attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; (3) a copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. (See also Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971) and as set forth in the Official Gazette at 1156 OG 53.)

Attorney for applicant, Mark Friedman, previously indicated that attorney Anthony J. Castorina receives all correspondence addressed to him from the USPTO. The instant renewed petition is accompanied by revised supplementary declaration of Mr. Friedman only.

In his October 4, 2001 declaration, Mr. Friedman attested that he has "searched the file jacket and docket records, and these indicate that the Office Action was not received." Mr. Friedman provided a statement stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. Mr. Friedman's statement satisfied Items (1) and (2) above.

With regard to item (3), Mr. Friedman now declares that he has "the docket record provided is for the period between May 4, 2000 and June 22, 2000. The docket record is a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed." (Friedman decl., ¶1) Furthermore, Mr. Friedman corrects his earlier statement explaining that the docket records provided on 09 October 2001 were for the period May 4, 2000 and June 22, 2000. Mr. Friedman also provides an explanation of the entries in the docket records he supplied on 09 October 2001. Mr. Friedman further states that an Office action with a June 17, 2000 due date for response would have been listed in these docket records. Mr. Friedman states that "I never received a Notice of Missing Requirements or any other action on the above entitled application."

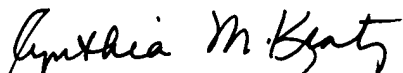
Mr. Friedman has now provided his docket record and explanation, showing all responses docketed for the date the response was due (17 June 2000 in this case) showing that there was no record of a response for the present application being due on that date.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.181 to request to withdraw holding of abandonment is GRANTED.

The 23 January 2001 Notification of Abandonment (Form PCT/DO/EO/909) is hereby VACATED.

The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of a new Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventors and a surcharge for filing the oath or declaration later than the 20 or 30 month period from the priority date is required.



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